

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
MARTINSBURG**

**MARK EDWARD MILLER,**

Plaintiff,

**v.**

**CIVIL ACTION NO.: 3:15-CV-49  
(GROH)**

**COMMISSIONER OF SOCIAL SECURITY,**

Defendant.

**ORDER ADOPTING REPORT AND RECOMMENDATION**

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation (“R&R”) [ECF No. 29] of United States Magistrate Judge Robert W. Trumble, which was issued on December 17, 2015. In the R&R, Magistrate Judge Trumble recommends that this Court grant the Defendant’s Motion for Summary Judgment [ECF No. 26] because substantial evidence supported the Administrative Law Judge’s denial of the Plaintiff’s application for benefits. Magistrate Judge Trumble further recommends that the *pro se* Plaintiff’s Complaint [ECF No. 1] be dismissed.

In reviewing an R&R, this Court is required, pursuant to 28 U.S.C. § 636, to conduct a *de novo* review of those portions of a magistrate judge’s findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and of a party’s right to appeal this Court’s Order. 28 U.S.C. § 636(b)(1); *Snyder*

v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984); Webb v. Califano, 468 F. Supp. 825, 830-31 (E.D. Cal. 1979). Objections to Magistrate Judge Trumble's R&R were due within fourteen plus three days of the Plaintiff being served with a copy of the same. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6(d), 72(b). After an initial attempt to mail a copy of the R&R to the *pro se* Plaintiff proved unsuccessful, the Court determined that the Plaintiff was being held at the Eastern Regional Jail ("ERJ") in Martinsburg, West Virginia. The Court directed the Clerk to send a copy of the R&R to the ERJ. Subsequently, the Court received notice that receipt of the R&R was accepted at the ERJ on January 7, 2016. Accordingly, taking into account a reasonable period of delay to ensure personal receipt of the R&R, the Court finds that the deadline to file objections to the R&R has passed. As of the date of this Order, no objections have been filed.

Upon careful review of the R&R and the entire record in this case, the Court finds no clear error. Accordingly, it is the opinion of this Court that the Report and Recommendation [ECF No. 29] should be, and is, hereby **ORDERED ADOPTED**. The Court **ORDERS** that the Defendant's Motion for Summary Judgment [ECF No. 26] is **GRANTED**. The Court further **ORDERS** that this matter be **DISMISSED WITH PREJUDICE** and that it be retired from this Court's active docket.

Pursuant to Federal Rule of Civil Procedure 58, the Clerk is **DIRECTED** to enter a separate judgment order in favor of the Defendant.

The Clerk is further **DIRECTED** to transmit copies of this Order to all counsel of record herein and to the *pro se* Plaintiff at the Eastern Regional Jail in Martinsburg, West

Virginia.

**DATED:** February 19, 2016



GINA M. GROH  
CHIEF UNITED STATES DISTRICT JUDGE